IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

Crl.MC.No. 1581 of 2007()

CC.466/2002 of JUDL. MAGISTRATE OF FIRST CLASS COURT, PARAPPANANGADI

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PETITIONER: ACCUSED

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1. ABDUL LATHEEF, AGED 32 YEARS,
   S/O.MOIDEENKUTTY, PILATHOTTATHIL HOUSE,
   VALIYAPARAMBU, AR NAGAR, MALAPPURAM.

2. MOIDEENKUNJU, AGED 66 YEARS,
   SON OF KUNHI KADER, VALIYAPARAMBU,
   AR NAGAR, MALAPPURAM.

3. FATHIMA, AGED 53,
   WIFE OF MOIDEENKUTTY, VALIYAPARAMBU, AR NAGAR,
   MALAPPURAM.

4. BEERANKOYA, AGED 28,
   S/O.MOIDEENKUTTY, VALIYAPARAMBU, AR NAGAR,
   MALAPPURAM.

BY ADV. SRI.AUGUSTINE JOSEPH
SRI.K.S.ROCKEY

RESPONDENTS:

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1. STATE OF KERALA,
   REP. BY THE STATION HOUSE OFFICER,
   THIRURANGADI POLICE STATION,
   MALAPPURAM THROUGH THE PUBLIC PROSECUTOR,
   HIGH COURT, ERNAKULAM.

2. UZAIBA, AGED 49,
   W/O.ALAVI, NECHIKATTIL HOUSE, PILATHOTTATHIL,
   VALIYAPARAMBU, A.R.NAGAR, MALAPPURAM.

R1 BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1581 of 2007

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Dated this the 8th day of June, 2007

O R D E R

The petitioners are the accused persons, against whom Annex. III F.I.R. was registered and after completion of investigation Annex.IV final report was filed by the police. The petitioners have come before this Court with a prayer that the final report filed against them may be quashed invoking the extra ordinary inherent jurisdiction available to this Court under Section 482 Cr.P.C.

2. What is the reason? The learned counsel for the petitioners submits that the allegations raised against the petitioners are all false. The allegations are raised by the defacto complainant against the petitioners with the transparent intention of vexing and harassing them. The real incident did not take place in the manner alleged by the defacto complainant. A neighbour of the defacto complainant, one Zacharia, was guilty of culpable conduct against the third petitioner and in respect of that a crime has been registered under Sections 448 and 324 I.P.C. That crime was registered at 17 hours on 6.8.2002.

About the same incident the second respondent herein had filed another complaint before the police and on that complaint Annex. III F.I.R. has been registered. In Annex. III F.I.R. it is alleged that an incident had taken place at 17 hours on 5.8.2006 at a different place. The 2nd respondent had alleged that all the four petitioners are guilty of the offences alleged against them.

3. The short contention is that the averments in Annex.I F.I.R. must be accepted and those averments have to be preferred to the averments in Annex.III F.I.R. registered against the petitioners. When Annex.I is accepted as correct all the allegations in Annex.III must be found to be of no credibility at all. Thus the contention is that Annex.III must be quashed because it is incongruent to Annex.I, which, according to the petitioners, must be preferred by the Court.

4. I must alertly remind myself of the nature, quality and contours of jurisdiction of this Court under Section 482 Cr.P.C. Evaluating the rival contentions and entering a finding of fact as to which of the contention is more acceptable is certainly not a function, which this Court can ordinarily undertake under Section 482 Cr.P.C. Annex. I cannot at this stage be preferred to Annex.III nor visa-a-vis. It will be artificial and

improper at this stage to come to the conclusion that Annex. I or III is entitled for greater credibility and to grant the relief under Section 482 Cr.P.C. to either of the contestants.

5. It follows that this Crl.M.C. deserves to be dismissed and I do so. I may hasten to observe that I have not intended to express any opinion on the disputed facts. I have only chosen to observe that the powers under Section 482 Cr.P.C. do not deserve to be invoked.

(R. BASANT)
Judge

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